



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
HEADQUARTERS, U.S. ARMY ARMOR CENTER AND FORT KNOX
FORT KNOX, KENTUCKY 40121-5000

ATZK-JA (27-10)

16 September 1999

MEMORANDUM FOR

Commanders, All Units Reporting Directly to This Headquarters,
Directors and Chiefs, Staff Offices/Departments, This Headquarters

SUBJECT: Thunderbolt Six Policy Memo No. 37-1 - Military Justice

1. Reference Manual for Courts-Martial, United States, 1998 Edition; AR 27-10, Military Justice; and Fort Knox Reg 27-10, Military Justice.
2. The purpose of this policy is to ensure the credibility and integrity of our military justice system, which is essential to good order and discipline within units and organizations.
3. A commander has a unique and powerful role in the military justice system that affects individual lives as well as the morale and readiness of the command. This role must be performed carefully, deliberately, and in strict compliance with applicable law and regulations. At a minimum, this requires an understanding of and compliance with the following requirements and prohibitions:
 - a. Soldiers deserve, and I demand that they receive, individual and fair consideration of the facts and circumstances surrounding each allegation of misconduct.
 - b. Commanders will not have an inflexible policy or a predetermined disposition or punishment based either upon the type of offense or upon the rank of the offender.
 - c. Commanders will not order a subordinate to dispose of a case in a certain way. Equally as important, commanders may not influence, whether directly or indirectly, whether intentionally or unintentionally, the decisions of subordinate commanders regarding action under the UCMJ. Every commander must exercise independent discretion in deciding an appropriate disposition (or recommendation for disposition) for each case.
 - d. Commanders shall dispose of all allegations of offenses in a timely manner at the lowest appropriate level. In determining what disposition is warranted, appropriate, and fair, commanders will consult with trial counsel and Rule for Courts-Martial 306.
 - e. Neither commanders nor subordinate leaders will intimidate or discourage potential witnesses, directly or indirectly, intentionally or unintentionally, from testifying on behalf of a

soldier at a court-martial, administrative board, or Article 15, UCMJ, proceeding. To the contrary, individuals possessing favorable information about a soldier must be encouraged to testify. Fairness to the individual soldier demands nothing less.

f. A soldier may be placed under pretrial restraint (restriction, pretrial confinement, or other restrictions on liberty beyond merely suspending the pass privilege) only if there is reasonable belief that an offense triable by court-martial has been committed, the soldier committed the offense, and restraint is required by the circumstances. Restrictions on liberty are not permitted in advance of nonjudicial proceedings. Lessor forms of restraint must be considered before pretrial confinement is ordered. When contemplating pretrial confinement, commanders must consult with trial counsel, and consider both the facts and the standards within Rule for Courts-Martial 304. If any form of restraint is imposed, commanders must notify their trial counsel to ensure prompt disposition of the case.

g. Punishing a soldier accused of misconduct before proper administrative or UCMJ proceedings are completed is unlawful, even if a commander or cadre member's intent is only to deter other soldiers from engaging in similar misconduct. Further, any treatment that humiliates, ridicules, or is otherwise contrary to the inherent dignity of an accused soldier is prohibited.

4. Our soldiers are our most precious resource. Soldiers will rally behind and remain loyal to caring, deliberate, and fair commanders. An unfair approach to discipline and justice or unlawful command influence in any form will have an adverse impact on our warfighting effectiveness and will not be tolerated.



B. B. BELL
Major General, USA
Commanding

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